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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/744,102	03/16/2001	Eli Nhaissi	NETEX-P3-US	3034
44702 7590 06/05/2009 OSTRAGER CHONG FLAHERTY & BROITMAN PC 570 LEXINGTON AVENUE FLOOR 17 NEW YORK, NY 10022-6894				
EXAMINER AKINTOLA, OLABODE				
ART UNIT 3691		PAPER NUMBER		
MAIL DATE 06/05/2009		DELIVERY MODE PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

09/744,102

**Applicant(s)**

NHAISSI ET AL.

**Examiner**

OLABODE AKINTOLA

**Art Unit**

3691

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 March 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 131, 133, 134 and 180-202 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 131, 133, 134 and 180-202 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/C)
- Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(c), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(c) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 3/24/2009 has been entered.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 131, 133, 134, 180-181, 183-185, 190-194, 197-199, 201 and 202 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roden (US 5970477) in view of Toader et al (US 5749075).

Re claims 131: Roden teaches a method of Internet billing, comprising: enabling a user computer to access a plurality of Internet services each of which is a product provider of a product or value activity for purchase by a user via said cost server at which the respective user has established a user account (fig. 1 RN {24, 18, 22}, col. 7, line 65 through col. 8, line 40, col. 9, lines 33-40), using an Internet interaction protocol, which access does not require additional actions beyond selecting a URL (Uniform Resource Locator) by a user (col. 12, lines 51-54); tracking said access of each respective user to each said internet product provider site and obtaining information as to a value amount said user has requested to purchase at each said internet product provider site (col. 11, lines 52-54, col. 9, lines 33-40, col. 13, lines 3-49); and generating a debit for each respective user against a user account established at the cost server according to said tracking, wherein said debit accumulates charges at a different rate for each said accessed Internet product provider site according to the value amount said user has requested to purchase (col. 8, lines 60-63, col. 9, lines 23-49, col. 13, lines 3-49 “allocation parameters” and “distance-based rates” ).

Roden does not explicitly teach the use of pre-paid user account in a given authorized amount. Toader teaches the use of pre-paid user account in a given authorized amount (abstract, col. 3, lines 48-58). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Roden to include prepaid accounts for the obvious reason of limiting the access time and/or cost of products desired to the balance in the prepaid account.

Re claim 133: Roden teaches presenting an indication responsive to said debit to said user during said access (col. 7, line 65 through col. 8, line 40, col. 12, lines 51-54, col. 11, lines 52-54, col.8, lines 60-63, col. 9, lines 23-49).

Re claim 134: Roden teaches wherein the cost server is connected via the internet (fig. 1 RN {24, 18, 22}, col. 7, line 65 through col. 8, line 40, col. 12, lines 51-54, col. 11, lines 52-54, col.8, lines 60-63, col. 9, lines 23-49).

Re claim 180: Roden teaches wherein the cost server is credited by one of a pre-paid card, credit card or a bank account (col. 7, line 65 through col. 8, line 40, col. 12, lines 51-54, col. 11, lines 52-54, col.8, lines 60-63, col. 9, lines 23-67).

Re claim 181: Roden teaches wherein the debit is responsive to one of accessing a site, provided information, purchase of a product or a purchase of a service (col. 7, line 65 through col. 8, line 40, col. 12, lines 51-54, col. 11, lines 52-54, col.8, lines 60-63, col. 9, lines 23-67).

Re claim 183: Roden teaches wherein the cost server comprises a provider of one of a product or a service (col.8, lines 60-63, col. 9, lines 23-49).

Re claim 184: Roden teaches wherein the cost server is integrated with a provider of one of a product or a service (col.8, lines 60-63, col. 9, lines 23-49).

Re claim 185: Roden teaches wherein the cost server is associated with a provider of one of a product or a service (col.8, lines 60-63, col. 9, lines 23-49).

Re claim 192: Roden teaches wherein the rate is at least one of flat rate, per use, rate per number of page accesses, rate per download count, rate per download bandwidth, rate per new page accessed, rate per time, rate per bandwidth or rate per data speed (col.8, lines 60-63, col. 9, lines 23-49).

Re claim 193: Roden teaches wherein the rate is based on at least one of the number of access times, access periodicity, access latency, time of day, connection bandwidth, connection difficulty, popularity of the accessed site, promotion paid for accessing the site, subsidy to the accessed site, consent to view advertisements, the size or screen area thereof or quality of service (col.8, lines 60-63, col. 9, lines 23-49).

Re claim 194: Roden teaches wherein the rate is related to the user (col.8, lines 60-63, col. 9, lines 23-49).

Re claim 201: Roden teaches wherein the account is a particular sub-account (col.8, lines 60-63, col. 9, lines 23-67).

Re claims 190, 191, 197, 198, 199 and 202: Roden does not explicitly teach wherein the internet access quality is degraded responsive to a critical low debit level, wherein the quality comprises

at least one of a access time, response time, memory allocation, graphic quality, features, services and number of advertisements; wherein the bonus points are limited to specific expenditure; wherein the expenditure is at least one of using a service, receiving a gift or responding to information; wherein the bonus points are used for at least one of an extra service, increased access functionality, increased quality of a service or increased amount of a service; and wherein presenting is responsive to a critical low debit level. Toader teaches the use of prepaid Internet account for accessing the Internet whereby the access time is degraded when the balance on the prepaid account is used up, wherein the bonus points are limited to specific expenditure, wherein a addition "free" or prepaid time is awarded for answering survey (abstract, col. 3, lines 48-58). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Roden to include prepaid accounts for the obvious reason of limiting the access time to the balance in the prepaid account.

Claims 182, 186-188 and 195-196 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roden in view of Toader and further in view of Ferguson et al (US 5819092).

Re claim 182, 186-188 and 195-196: Roden does not explicitly teach wherein involuntary information is presented to the user responsive to connecting the cost server; wherein the debit is generated in a plurality of discrete amount elements; wherein the cost server comprises a clearinghouse for at least one of converting or transferring funds; wherein the cost server transfers funds to electronic accounts; wherein the account is credited with bonus points responsive to the user activity; wherein the user activity comprises at least one of supplying

information, exposure to advertisement, responding to an advertisement, initiating an advertisement or initiating a questionnaire. However, Ferguson teaches these concepts (see at least col. 4, lines 33-62, col. 9, lines 12-20, col. 10, lines 1-11, col. 12, lines 14-23, col. 29, lines 44-55, col. 30, lines 20-58, 60-67). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Roden to include these features for the obvious reason of offering an incentive to the user for participating in the activities.

Claim 200 is rejected under 35 U.S.C. 103(a) as being unpatentable over Roden in view of Toader, and further in view of Entman et al (US 6292551).

Re claim 200: Roden and Toader do not explicitly teach wherein the account is credited responsive to the quality of service provided to the user. Entman teaches that crediting a user account responsive to the quality of service provided is old and well known (col. 1, lines 41-48). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Roden in view of Toader to include this feature for the obvious reason of compensating the user for the quality of service provided.

Claim 189 is rejected under 35 U.S.C. 103(a) as being unpatentable over Roden in view of Toader and further in view of Cretzler (US 5644724).

Re claim 189: Roden does not explicitly teach transferring taxes to an official authority Cretzer teaches transferring taxes to an official authority (abstract). It would have been obvious to one of

ordinary skill in the art at the time of the invention to modify Roden to include this feature for the obvious reason of transferring collected transaction taxes to the appropriate authority.

### ***Response to Arguments***

Applicant's arguments with respect to claim have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to OLABODE AKINTOLA whose telephone number is (571)272-3629. The examiner can normally be reached on M-F 8:30AM -5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on 571-272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Olabode Akintola/

Examiner, Art Unit 3691